

Attorney Docket No.: KBI-0004
Inventors: Ranganathan et al.
Serial No.: 09/855,346
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REMARKS

Claims 1-10 are pending in the instant application. Claim 10 has been allowed. Claims 1-3, and 6-9 have been canceled. Claim 4 has been amended. No new matter has been added. Reconsideration is respectfully requested in light of these amendments and the following remarks.

I. Allowable Subject Matter

The Examiner has acknowledged that claim 10 is allowed.

The Examiner has further acknowledged that claims 4 and 5 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In accordance with the Examiner's acknowledgment of allowable subject matter claim 4 has been amended so that it is presented in independent form including all of the limitations of the base claim and all intervening claims. Claim 5 is dependent upon claim 4. Applicants respectfully request allowance of these claims.

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II. Rejection of Claims 1-3 and 6-9 Under 35 U.S.C. §103

The Examiner has rejected claim 1-3 and 6-9 under 35 U.S.C. §103(a) as unpatentable over Paul (US 6,180, 099) in view of Ford (US 5,733,568).

The Examiner suggests that Paul teaches a composition comprising inulin, guar gum, fructo-oligosaccharides and a bacteria selected from *Lactobacilli* and *Bifidobacteria* for gastrointestinal health. The Examiner suggests that although the reference does not specifically teach that the microorganisms are ammonia-philic urea-degrading microorganisms with high alkaline stability and urease activity, such characteristics are intrinsic to the named microorganisms of Paul. It is further suggested that Ford teaches that microencapsulating *Lactobacilli* protects the bacteria from gastric juices and allows them to reach the lower intestines where they are therapeutically beneficial. The Examiner suggests that it would have been obvious to one of skill in the art to encapsulate the composition of Paul because it was common to do so as demonstrated by Ford. Applicants respectfully disagree. Applicants believe that the recited art fails to teach or suggest all of the limitations of claim 1, and that there is no motivation to one of skill to combine the teachings of Paul and Ford.

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However, in an earnest effort to advance prosecution in this case, Applicants have canceled claims 1-3 and 6-9. Applicants reserve the right to pursue the canceled subject matter in a divisional application. Therefore, withdrawal of this rejection is respectfully requested.

CONCLUSION

Applicants believe that the foregoing comprises a full and complete response to the Office Action of record. Accordingly, favorable reconsideration and subsequent allowance of the pending claims is earnestly solicited.

Respectfully submitted,

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